

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

KENNETH D’JAN BARNES

PLAINTIFF

VS.

CIVIL ACTION NO. 3:12-cv-78-CWR-FKB

THE CITY OF JACKSON, ET AL.

DEFENDANTS

**REPORT AND RECOMMENDATION OF  
UNITED STATES MAGISTRATE JUDGE**

This cause comes on this date on the *sua sponte* motion of the Court to dismiss this cause of action because of Plaintiff's failure to prosecute his claims. *Natural Gas Pipeline Co. v. Energy Gathering, Inc.*, 2 F.3d 1397, 1407 (5th Cir. 1993). Plaintiff failed to appear at an Omnibus Hearing scheduled in this matter on November 28, 2012, and he has failed to respond to the Order to Show Cause entered on November 30, 2012. *See* Docket Nos. 39, 40. By failing to appear at the Omnibus Hearing, and by failing to respond to the Order to Show Cause entered November 30, 2012, Plaintiff has failed to prosecute this case. For these reasons, the undersigned recommends that Plaintiff's claims be dismissed without prejudice for failure to prosecute. Fed. R. Civ. P. 41(b).

The parties are hereby notified that failure to file written objections to the proposed findings, conclusions, and recommendation contained within this report and recommendation within fourteen (14) days after being served with a copy shall bar that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court. 28 U.S.C. §636, *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1428-29 (5th Cir. 1996).

RESPECTFULLY SUBMITTED, this the 10th day of January, 2013.

/s/ F. Keith Ball  
UNITED STATES MAGISTRATE JUDGE